

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

b

TARETTA MANNING

CIVIL ACTION NO. 17-CV-00498

VERSUS

CHIEF JUDGE DRELL

CIRCLE K STORES, INC., *et al.*

MAGISTRATE JUDGE PEREZ-MONTES

SUA SPONTE JURISDICTIONAL BRIEFING ORDER

Before the Court is a Complaint removed from a Louisiana state court by Defendants Circle K. Stores, Inc. and Travelers Constitution State Insurance Company. Defendants premise federal jurisdiction on diversity of citizenship (Doc. 1).

The diversity statute – 28 U.S.C. § 1332 – is satisfied upon a showing of: (1) diversity of citizenship between the parties; and (2) an amount in controversy in excess of \$75,000, exclusive of interest and costs. “Complete diversity requires that all persons on one side of the controversy be citizens of different states than all persons on the other side.” Harvey v. Grey Wolf Drilling Co., 542 F.3d 1077, 1079 (5th Cir. 2008) (internal citation and quotation omitted). Further, “when jurisdiction depends on citizenship, citizenship must be *distinctly* and *affirmatively* alleged.” Getty Oil Corp., a Div. of Texaco, Inc. v. Ins. Co. of N. Am., 841 F.2d 1254, 1259 (5th Cir. 1988).

The Court has “an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.” Arbaugh v. Y&H Corp., 546 U.S. 500, 514 (2006). This duty persists throughout all

phases of the litigation, “even after trial and the entry of final judgment.” Id. at 506-07.

The citizenship of an individual is his or her domicile, meaning the place where an individual resides and intends to remain. Acridge v. Evangelical Lutheran Good Samaritan Soc., 334 F.3d 444, 448 (5th Cir. 2003). A corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business. Tewari De-Ox Sys., Inc. v. Mountain States/Rosen, Ltd. Liab. Corp., 757 F.3d 481, 483 (5th Cir. 2014). The citizenship of a general partnership depends on that of all partners. Int'l Paper Co. v. Denkmann Associates, 116 F.3d 134, 135, 137 (5th Cir. 1997). The citizenship of an LLC is determined by the citizenship of all its members. Harvey, 542 F.3d at 1079-80.

Plaintiff Manning resides in Louisiana. Plaintiff Manning alleges she slipped and fell in a pool of clear liquid on the floor of a Circle K Store, injuring her left knee. Plaintiff alleges her damages exceed \$75,000.

Defendant Circle K Stores, Inc. alleges that is a Texas corporation with its principal place of business in Arizona, which is wholly owned by the Circle K Corporation, a Delaware Corporation which is a subsidiary of Couch-Tard U.S., Inc., also a Delaware corporation (Docs. 1, 2).

Defendants allege that Travelers Constitution State Insurance Company is a “foreign company” (Doc. 1).¹ The nature of the business organization of Travelers

¹ Defendants allege that Travelers may soon be voluntarily dismissed from the suit, but that motion has not yet been filed.

Constitution State Insurance Company is not alleged, and its citizenship is not shown. Therefore, diversity is not shown on the face of the pleadings.

The Clerk of Court is DIRECTED to serve a copy of this order upon any and all Defendants IMMEDIATELY upon receipt of proof of service or an appearance.

IT IS ORDERED that, not later than 21 days from service of this Order on Defendants Circle K. Stores, Inc. and Travelers Constitution State Insurance Company SHALL FILE: (1) a Jurisdictional Memorandum setting forth the citizenship of all parties to this lawsuit, specifically including the nature and citizenship of identity of Travelers Constitution State Insurance Company; and (2) a motion under for leave to amend the jurisdictional allegations of the Notice of Removal to adequately allege diversity jurisdiction.

IT IS FURTHER ORDERED that Plaintiff will be allowed **seven days** from receipt of Defendants' memoranda regarding jurisdiction to file a response.

THUS DONE AND SIGNED in chambers in Alexandria, Louisiana, this 13th day of April, 2017.



Joseph H.L. Perez-Montes
United States Magistrate Judge